

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
CINCINNATI**

**UNITES STATES OF AMERICA**

**v.**

**Case No.: 1:19-cr-00081  
Judge Matthew McFarland**

**ANTHONY RATTINI,  
JAMES BARCLAY,  
DEVONNA MILLER-WEST,  
SAMUEL R. BALLENGEE, and  
MIAMI-LUKEN INC.**

**DEFENDANT SAMUEL R. BALLENGEE'S  
MOTION TO CONTINUE**

NOW COMES the Defendant, Samuel R. Ballengee, by counsel, and moves the Court to continue the trial of this action from the scheduled date of January 5, 2022, to a date in the Spring 2022, for the following reasons:

1. The COVID 19 pandemic continues with cases reportedly rising, especially due to the latest variant, Omicron. The Delta variant also continues. These conditions raise the possibility of unplanned delays, of or interruptions to, the progress of the trial.
2. Defendant intends to call as witnesses at trial, customers who filled prescriptions for pain medications at his pharmacy, and who reside in Southern West Virginia and Eastern Kentucky. Some such witnesses suffer debilitating medical conditions that make it difficult for them to travel on potentially icy or snowy mountain roads in the winter. Defendant thus risks losing potential defense witnesses.
3. On November 5, 2021 the Supreme Court granted review in two cases, Ruan v. United States and Kahn v. United States. These cases, collectively, involve questions

regarding the good faith defense for physicians charged with unlawful prescribing pain medications, and also relating to the elements of the offense as relate to “usual course of the practitioner’s practice.” Resolution of those cases implicate issues for trial.

4. Defendant knows and understands his rights to a speedy trial pursuant to the United States Constitution and Speedy Trial Act, and he knowingly has made an informed and intelligent decision to waive the same.
5. In these totality of the circumstances, the ends of justice will be served by the continuance sought herein.

Respectfully submitted,

SAMUEL R. BALLENGEE  
By counsel,

/s/ S. Benjamin Bryant  
John A. Kessler (WV Bar No. 2027)  
S. Benjamin Bryant (WV Bar No. 520)  
Carey, Douglas, Kessler & Ruby, PLLC  
901 Chase Tower  
707 Virginia Street, East  
P.O. Box 913  
Charleston, WV 25323  
Telephone: (304) 345-1234  
Facsimile: (304) 342-1105  
[jakessler@csdlawfirm.com](mailto:jakessler@csdlawfirm.com)  
[sbbyrant@csdlawfirm.com](mailto:sbbyrant@csdlawfirm.com)

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CERTIFICATE OF SERVICE

I, S. Benjamin Bryant, hereby certify that on the 10<sup>th</sup> day of December, 2021, I electronically filed “**Defendant Samuel R. Ballengee’s Motion to Continue**” with the Clerk of the Court using the CM/ECF system, which will send notification of such filings to the following CM/ECF participants:

Kevin R. Conners, Esq.  
Two Miranova Place  
Columbus, OH 43215  
614-795-1000  
[kevinconners@kevinconners.com](mailto:kevinconners@kevinconners.com)  
*Counsel for Defendant, Anthony Rattini*

Mark Robert Chilson, Esq.  
Chilson Law Office, LLC  
10619 Falls Creek Lane  
Dayton, OH 45458  
937-286-2989  
[mchilson@chilsonlaw.com](mailto:mchilson@chilsonlaw.com)  
*Counsel for Defendant, James Barclay*

William J. Hughes, Jr., Esq.  
Porzio, Bromberg & Newman, P.C.  
100 Southgate parkway  
Morristown, NJ 07962  
609-442-9197  
[wjhughes@pbnlaw.com](mailto:wjhughes@pbnlaw.com)  
*Counsel for Defendant, James Barclay*

Bradley Davis Barbin, Esq.  
52 West Whittier Square  
Columbus, OH 43206  
614-445-8416  
[bbarbin@BarbinLaw.com](mailto:bbarbin@BarbinLaw.com)  
*Counsel for Defendant, Devonna Miller-West*

Laura Irene Hillerich, Esq.  
Robert Joseph Thumann, Esq.  
Crehan & Thumann, LLC  
404 E. 12<sup>th</sup> Street  
2<sup>nd</sup> Floore  
Cincinnati, OH 45202  
513-381-1700  
531-381-5050  
[hillerich@ctlawcincinnati.com](mailto:hillerich@ctlawcincinnati.com)  
[thumann@ctlawcincinnati.com](mailto:thumann@ctlawcincinnati.com)  
*Counsel for Defendant, Samuel R. Ballengee*

Richard H. Blake, Esq.  
McDonald Hopkins  
600 Superior Ave., East  
Suite 2100  
Cleveland, OH 44114  
[rblake@mcdonaldhopkins.com](mailto:rblake@mcdonaldhopkins.com)  
*Counsel for Defendant, Miami-Luken Inc.*

William J. Beckley, Esq.  
McDonald Hopkins LLC  
250 West Street  
Suite 550  
Columbus, OH 43215  
614-58-0030  
[wbeckley@mcdonaldhopkins.com](mailto:wbeckley@mcdonaldhopkins.com)  
*Counsel for Defendant, Miami-Luken Inc.*

Maritsa Ann Flaherty, Esq.  
United States Attorney's Office  
Southern District of Ohio  
303 Marconi Boulevard  
Suite 200  
Columbus, OH 43215  
614-255-1611  
[maritsa.flaherty@usdoj.gov](mailto:maritsa.flaherty@usdoj.gov)  
*Counsel for Plaintiff, USA*

Timothy D. Oakley, Esq.  
United States Attorney's Office  
Atrium II  
221 E. Fourth Street  
Suite 400  
Cincinnati, OH 45202  
[Tim.Oakley@usdoj.gov](mailto:Tim.Oakley@usdoj.gov)  
*Counsel for Plaintiff, USA*

/s/ S. Benjamin Bryant  
S. Benjamin Bryant, WVSB No. 520